

R E M A R K S

In response to the Requirement for Restriction between I) claims 1-13; II) claims 14-20 and III) claims 21-23, Applicants elect with traverse Group I claims 1-13 directed to a stake bed assembly.

Applicants traverse the requirement with respect to claims 1-13 and 14-20 inasmuch as claim 14 specifically includes "a removable stake bed assembly for pivoted attachment to said chassis". Claim 1 and independent claim 10 also include a stake bed assembly for a mortar buggy which is in fact a dump vehicle. In claim 1, as now amended, the flat bed assembly is attached to a mortar buggy from which a mortar hopper has been removed so that the stake bed assembly does, in fact, form a pivotal hopper connected with the chassis and power cylinder.

Applicants also traverse the restriction requirement with respect to claim 21 and dependent claims 22 and 23 which also include vehicular structure and a load bed assembly attached to the chassis and other details of the load bed assembly and its relation to the vehicular structure. Applicants submit that only a single invention is being claimed in all of the claims now in the application, namely, a stake bed assembly which replaces a mortar buggy hopper with the load bed assembly being capable of acting as a vehicle with a dumpable hopper and also capable of supporting loads on a load bed and on a load bed with laterally extended

Serial No.: 10/767,220
Atty. Docket No.: P69450US0

horizontal surfaces at each side edge thereof. Accordingly, Applicants submit that each of the groups of claims include a load bed assembly, a dump vehicle which includes a load bed assembly and a vehicle and engine which also includes a load bed assembly in claims.

New claims 24-28 are also believed to include a stake bed assembly in a mortar buggy configuration and a stake bed assembly in a load carrier configuration with features relating the stake bed assembly to the chassis and other components of the mortar buggy that is converted from a mortar buggy configuration to a stake bed assembly configuration.

Accordingly, Applicants request reconsideration of the Requirement for Restriction and an examination and action on the merits of all claims which are directed to structure for converting a conventional mortar buggy with chassis, engine, steering controls and hopper to a stake bed vehicle by removing the hopper and replacing the hopper with a stake bed assembly having components which can be oriented to provide different configurations for carrying different kinds of loads.

In response to the Requirement to elect a single species of the invention as illustrated in Figures 1, 2 or 8. Figure 1 illustrates a mortar buggy in which the hopper has been removed. Figures 2-7 illustrates a stake bed assembly forming a load carrier of the present invention and the manner in which it is related to

Serial No.: 10/767,220
Atty. Docket No.: P69450US0

a mortar buggy structure when the existing mortar buggy hopper illustrated in Figure 1 has been removed, and Figure 8 discloses the stake bed assembly of the present invention associated with a mortar buggy from which the hopper has been removed with the stake bed assembly in a mode of use obtained by orientation of the side panels or walls in a horizontal position extending from the load bed outwardly and supported by support arms.

Applicants submit that Figures 1, 2 and 8 do not represent separate species of the invention but the same invention in which components are oriented in selective orientation to provide a utilitarian load carrier. However, in view of the requirements of 35 U.S.C. § 121, Applicants elect the species illustrated in Figure 2 (actually Figures 2-7) with traverse. Figure 1 is not a separate species but only an illustration of removal of the mortar buggy hopper. Figures 2-7 illustrate the manner in which the stake bed assembly is associated with the mortar buggy after the hopper has been removed. Figure 8 rather than disclosing a separate species discloses orientation of the stake bed assembly when the side panels or side walls are oriented in laterally extended position to form an extended load bed.

In further compliance with 35 U.S.C. § 121, claim 14 is believed to be generic by including the mortar buggy, chassis, engine and controls hopper, cylinder and a removable stake bed assembly as a replacement of the hopper. Claim 1 and the claims

dependent thereon are believed readable on the species of Figure 2 by claiming the side panels that can be vertical or horizontal to form an extended flat bed. Likewise, independent claim 10 is believed to be readable on the elected species by setting forth the swing out arms to support the horizontal side panels. Claim 14 and the claims dependent therefrom also include the stake bed assembly including the side walls and the manner in which they are supported selectively in a vertical and horizontal position to form an extended flat bed as illustrated in Figure 8 of the drawings. Claims depending from claim 14 likewise read on the embodiment of the invention illustrated in Figure 2. Independent claim 21 includes the flat load bed without extensions to enable load items to extend beyond the side edges of the flat load bed and dependent claims 22 and 23 are more specifically directed to the elected embodiment of the invention in which the side walls are selectively positioned, vertically or horizontally.

New claims 24-28 also include the pair of side walls as illustrated in Figure 8 that are supported in vertical or horizontal laterally extending relation to provide laterally extending support surfaces on said load bed.

Applicants request reconsideration of the requirement for restriction between inventions as set forth in the preceding remarks and further request reconsideration of the election of species between Figures 1, 2 and 8 which disclose a mortar buggy

Serial No.: 10/767,220
Atty. Docket No.: P69450US0

being modified by removal of the hopper, the load bed assembly attached to the mortar buggy after removal of the hopper in which the side walls of the stake bed assembly are vertically oriented or extend horizontally laterally outwardly from the load bed. Therefore, rather than Figures 1, 2 and 8 disclosing different species of the invention, they disclose stages in which the conventional mortar buggy is converted to a stake bed load carrier when the side walls are perpendicular to the load bed and when the side walls are oriented in laterally horizontal extended relation to the load bed.

Accordingly, reconsideration of the requirement for restriction and election of species is requested and an action on the merits of all of the claims in the application is requested.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By: James A. Smith Reg. No. 17393
for: Harvey B. Jacobson, Jr.
Reg. No. 20,851

400 Seventh Street, N.W.
Washington, D.C. 20004
Telephone: (202) 638-6666
Date: August 29, 2005

HBJ:HAS:gm

R:\SHARED\HAS\STONE CONSTRUCTION\P69450US0 RRR-2.wpd